

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

THE MCPHERSON BUILDING

901 FIFTEENTH STREET, N.W., SUITE 1100

WASHINGTON, D.C. 20005-2327

(202) 682-3500

FAX (202) 682-3580

425 PARK AVENUE
NEW YORK, NY 10022-3598

1999 AVENUE OF THE STARS
LOS ANGELES, CA 90067-6048

SHANGHAI CENTRE
SUITE 405
1376 NANJING XI LU
PEOPLE'S REPUBLIC OF CHINA

DOCKET FILE COPY ORIGINAL

PHILLIPS POINT, WEST TOWER
SUITE 1002
777 S. FLAGLER DRIVE
WEST PALM BEACH, FL 33401

NINE QUEEN'S ROAD CENTRAL
HONG KONG

WRITING DESK TOTAL NUMBER
(202) 682-3501

December 13, 1999

RECEIVED

DEC 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Portals II Building, TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 99-312
RM-9735
Mill Hall, Pennsylvania;
Jersey Shore, Pennsylvania; and
Pleasant Gap, Pennsylvania

Dear Ms. Salas:

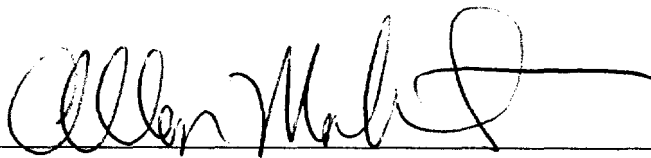
On behalf of Forever Broadcasting, LLC, we are herewith filing an original and four (4) copies of its "Comments" in the above-referenced docket to reallocate Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania, and reallocate Channel 254A from Mill Hall, Pennsylvania to Pleasant Gap, Pennsylvania.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By:



Allan G. Moskowitz

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20555

DOCKET FILE COPY ORIGINAL
RECEIVED

DEC 13 1999

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Mill Hall, Pennsylvania;)
Jersey Shore, Pennsylvania; and)
Pleasant Gap, Pennsylvania))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 99-312
RM-9735

TO: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS

Forever Broadcasting, LLC ("Forever"), licensee of Radio Station WZRZ(FM), Mill Hall, Pennsylvania, by its counsel and pursuant to Section 1.420 of the Commission's Rules, hereby submits its "Comments" in response to the "Notice of Proposed Rulemaking" ("NPRM") released October 22, 1999 in the above-referenced docket. The NPRM proposed, at Forever's request, that Section 73.202(b) of the Commission's Rules be amended (1) to reallocate Channel 249A from Jersey Shore to Mill Hall, Pennsylvania and modify Radio Station WVRT(FM)'s license accordingly; and (2) to reallocate Channel 254A from Mill Hall, Pennsylvania to Pleasant Gap, Pennsylvania and modify Radio Station WZRZ(FM)'s license accordingly. In support thereof, the following is respectfully shown:

Public Interests Benefits

1. Forever's proposed reallocation scheme would serve the public interest and the Commission's allotment priorities by proposing a new first service to Pleasant Gap,

Pennsylvania. Pleasant Gap is a Census Designated Place with a 1990 U.S. Census population of 1,699 and is located in Spring Township which is a part of Centre County. However, local authorities estimate that Pleasant Gap's present population is actually 6,500. The community is located just minutes off of Interstate Route 80, the main east-west interstate in Pennsylvania. The community has an elementary school, a volunteer fire department, a post office, the HealthSouth Nittany Valley Hospital, scores of local businesses of every variety, restaurants, gas stations, banks, churches and a Rotary Club. The community's two major employers are Cerro Metals and Supelco Glass. The proposed I-99 extension which will link Interstate 99 and Interstate 80 will connect in Pleasant Gap and will provide for continued growth in the years to come. At the moment, Pleasant Gap is the fastest growing area in Centre County outside of State College. While Pleasant Gap has all the attributes of, and constitutes, a "community" for purposes of Section 73.202(b) of the Commission's Rules¹, no radio stations are currently licensed to Pleasant Gap, either commercial or non-commercial. Consequently, Keymarket's proposal to allocate Channel 254A to Pleasant Gap, Pennsylvania, will provide a badly needed first local radio service to a rapidly growing community.

2. Under the Commission's allotment criteria, a first-local service is preferred over additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d. 88 (1982). Furthermore, as indicated in the NPRM, neither Mill Hall nor Jersey Shore, Pennsylvania will be left bereft of FM service in that we are herein proposing to allot Channel 249A to Mill Hall, Pennsylvania as a replacement service and Channel 242B1 will remain in Jersey Shore, Pennsylvania along with Radio Station WJSA(AM), operating at 1600 kHz. Additionally, grant of the instant proposal will allow Radio Station WZRZ(FM) to increase to a

¹ See FM Channel Assignments (Biltmore Forest, North Carolina), 63 RR 2d.251 (1987).

fully-spaced maximum Class A facility and the proposed arrangement of allotments will allow Radio Station WCBA-FM, Corning, Pennsylvania to increase to a fully-spaced maximum Class A facility from its licensed transmitter site. Consequently, grant of the instant proposal will result in a number of public service benefits.

Gain and Loss Study

3. As indicated in the attached Engineering Statement of William J. Getz of Carl T. Jones Corporation, and in response to the NPRM's request for the provision of gain and loss area studies, the proposed reallocation of Channel 249A and relocation of Radio Station WVRT(FM), from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania will entail a net gain of 507 kilometers service area and a net loss of 2,153 persons within that service area. The entire gain and loss areas are served by at least five (5) full-time aural services. In contrast, the proposal to reallocate Channel 254A from Mill Hall, Pennsylvania to Pleasant Gap, Pennsylvania and the relocation of Radio Station WZRZ(FM) will result in a net gain in service area of 659 square kilometers encompassing 65,941 persons. Again, the entire gain and loss areas are served by at least five (5) full-time aural services. Finally, the total rulemaking proposal, i.e., the reallocation of Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania and the reallocation of Channel 254A from Mill Hall, Pennsylvania to Pleasant Gap, Pennsylvania and the relocations of Radio Stations WZRZ(FM) and WVRT(FM) will result in a net gain in service area of 1,134 square kilometers encompassing a net gain population of 80,598 persons. The entire gain and loss areas are served by at least five (5) full-time aural services.

4. In its Petition for Rulemaking, Forever submitted the Declaration of Sabatino Cupelli, President of DHRB Inc., consenting to (1) the proposed reallocation of Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania; (2) the proposed change in the

reference coordinates for the allotment; and (3) the modification of the license of Radio Station WVRT(FM) to operate on that channel. Mr. Cupelli's Declaration also certified that should the Commission grant the instant proposal to, inter alia, reallocate Channel 249A from Jersey Shore to Mill Hall, Pennsylvania, DHRB Inc. would file an application for the new facilities and, when granted, would implement that application expeditiously. For the staff's convenience, we have resubmitted Mr. Cupelli's Declaration which is attached.

5. Forever hereby reiterates that should the Commission grant the instant proposal to reallocate Channel 254 from Mill Hall, Pennsylvania to Pleasant Gap, Pennsylvania, and to modify Radio Station WZRZ(FM)'s license accordingly, Forever will file an application for the new facilities and, when granted, will implement that application expeditiously.


6. In conclusion, Commission's grant of the instant proposal will provide numerous benefits to the listening public. Pleasant Gap, a rapidly growing community, will gain its first local aural outlet while neither Mill Hall nor Jersey Shore will be left without a radio station. Moreover, the instant proposal will provide, in toto, a net primary service gain area of 1,134 square kilometers and a net primary service population gain of 80,598 persons. Grant of the instant proposal will additionally allow Radio Station WZRZ(FM) to increase to a fully spaced maximum Class A facility and will allow Radio Station WCBA-FM, Corning, Pennsylvania to increase to a fully spaced maximum Class A Facility from its licensed site. Forever submits that its instant proposal should, therefore, be adopted.

WHEREFORE, for the foregoing reasons, Forever Broadcasting LLC respectfully requests that the Commission amend its Table of Allotments to reallocate Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania and to reallocate Channel 254 from Mill Hall,

Pennsylvania to Pleasant Gap, Pennsylvania and modify the licenses of Radio Stations
WVRT(FM) and WZRZ(FM) accordingly.

Respectfully submitted,

Forever Broadcasting, LLC

By: 
Allan G. Moskowitz
Its attorney

March 25, 1999

Secretary
Federal Communications Commission
Washington, DC

Dear Secretary:

On behalf of DHRB, Inc., licensee of Radio Station WVRT(FM), Jersey Shore, Pennsylvania, this will serve to certify the licensee's consent to the reallocation of Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania, and the modification of WVRT(FM)'s license to operate on Channel 249A at Mill Hall, Pennsylvania, and to any other changes in the Table of Allotments incidental to changing WVRT(FM)'s community of license from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania.

Furthermore, should the Commission amend the Table of Allotments to reallocate Channel 249A from Jersey Shore, Pennsylvania to Mill Hall, Pennsylvania, the licensee shall expeditiously file an application to modify WVRT(FM)'s facilities to operate on Channel 249A at Mill Hall, Pennsylvania.

Respectfully submitted,

DHRB, INC.


BY:


SABATINO CUPELLI, PRESIDENT

CERTIFICATE OF SERVICE

I, Laura P. Sinner, of the law firm Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 13th day of December, 1999, a copy of the foregoing "Comments" was hand-delivered to the following:

Sharon P. McDonald
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

A handwritten signature in cursive script, reading "Laura P. Sinner", written over a horizontal line.

Laura P. Sinner

CARL T. JONES
CORPORATION

**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF COMMENTS IN
MM DOCKET NO. 99-312, RM-9735**

Petitioner: Forever Broadcasting, LLC

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Forever Broadcasting, LLC, lead petitioner in the above referenced proceeding, to prepare this statement and the associated exhibits as Comments in support of a Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules. On October 13, 1999, the Allocations Branch adopted a Notice of Proposed Rulemaking ("NPRM") setting forth the petitioner's requests to modify Section 73.202(b) of the FCC Rules in the following manner:

	<u>Present</u>	<u>Proposed</u>
Mill Hall, PA	254A	249A
Jersey Shore, PA	242B1, 249A	242B1
Pleasant Gap, PA	----	254A

STATEMENT OF WILLIAM J. GETZ
PAGE 2

Radio station WZRZ(FM), Mill Hall, PA, is currently licensed to operate on Channel 254A (FCC File No. BLH-961020KD). Radio station WVRT(FM), Jersey Shore, PA, is currently licensed to operate on Channel 249A (FCC File No. BLH-920226KA).

As requested, the NPRM proposed to modify Station WVRT(FM)'s license to specify operation on Channel 249A at Mill Hall, Pennsylvania as its new community of license. Likewise, the NPRM proposed to modify Station WZRZ(FM)'s license to specify operation on Channel 254A at Pleasant Gap, Pennsylvania, as its new community of license. The NPRM also requested that the petitioner provide gain and loss area studies related to the proposed arrangement of allotments. The gain and loss area studies are provided herein.

Exhibit 1 and Exhibit 2 show the primary service (60 dBu contour) gain and loss areas attributable to the reallocation of WVRT(FM), Channel 249A.¹ The details (populations and areas) of the WVRT(FM) gain area and loss area are summarized in Exhibit 7. The reallocation of WVRT(FM) will result in a net primary service area gain of 507 km². However, the reallocated WVRT(FM) maximum Class A facility is predicted to serve 2,153 less people than the currently licensed WVRT(FM) facility. As shown in the Exhibit 2, the entire gain area and the entire loss area are served by at least five full-time aural services.

¹ The WVRT(FM) licensed technical facility [6.0 kW (DA-MAX) @ 90 m HAAT; BLH-920226KA] was considered in computing the "WVRT(FM) Licensed" 60 dBu coverage contour. A maximum Class A facility [6.0 kW ERP @ 100 m HAAT] operating from the Mill Hall reference coordinates specified in the NPRM were considered in computing the "WVRT(FM) Reference" 60 dBu coverage contour.

STATEMENT OF WILLIAM J. GETZ
PAGE 3

Exhibit 3 and Exhibit 4 show the primary service (60 dBu contour) gain and loss areas attributable to the reallocation of WZRZ(FM), Channel 254A.² The details (populations and areas) of the WZRZ(FM) gain area and loss area are summarized in Exhibit 7. The reallocation of WZRZ(FM) will result in a net primary service area gain of 659 km² and a net primary service population gain of 65,941 persons. As shown in the Exhibit 4, the entire gain area and the entire loss area are served by at least five full-time aural services.

Exhibit 5 and Exhibit 6 show the primary service (60 dBu contour) gain and loss areas attributable to the total rulemaking proposal considering both the reallocation of WZRZ(FM) and WVRT(FM). The details (populations and areas) of the total rulemaking reallocation plan, for both the gain and the loss area, are summarized in Exhibit 7. The total reallocation plan will result in a net primary service area gain of 1,134 km² and a net primary service population gain of 80,598 persons. As shown in the Exhibit 6, the entire gain area and the entire loss area are served by at least five full-time aural services.

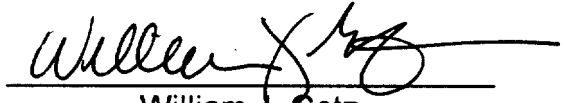
² The WZRZ(FM) licensed technical facility [0.977 kW ERP @ 177 m HAAT; BLH-961020KD] was considered in computing the "WZRZ(FM) Licensed" 60 dBu coverage contour. A maximum Class A facility [6.0 kW ERP @ 100 m HAAT] operating from the Pleasant Gap reference coordinates specified in the NPRM were considered in computing the "WZRZ(FM) Reference" 60 dBu coverage contour.

STATEMENT OF WILLIAM J. GETZ
PAGE 4

For the FM stations considered herein, the primary service coverage contours were computed in accordance with Section 73.313 of the FCC Rules.³ The area and population figures were determined using appropriate computer software applications.⁴

This statement and the associated exhibits were prepared by me or under my direct supervision and are believed to be true and correct.

DATED: December 11, 1999


William J. Getz

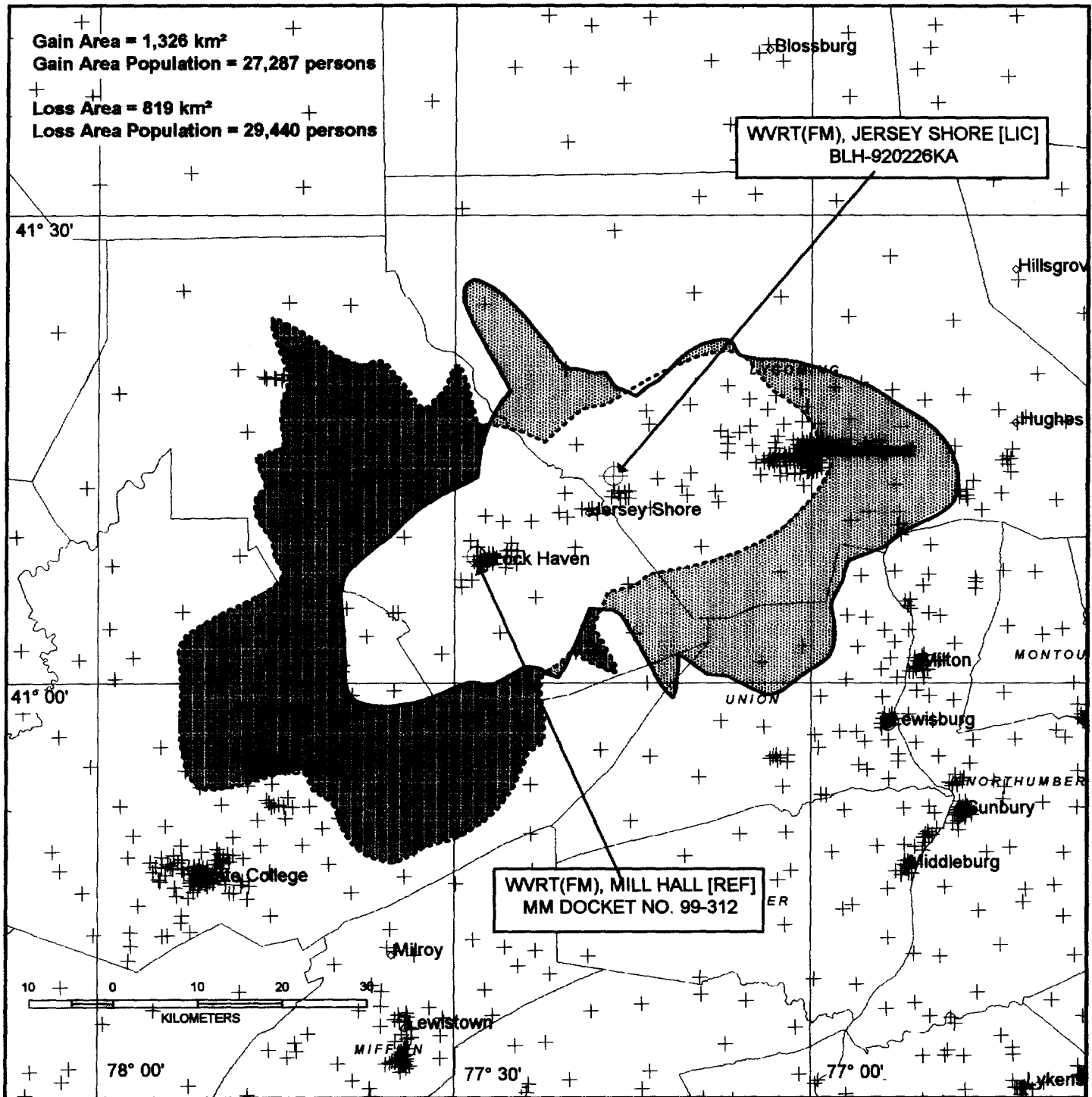
³ For the Class A, Class B and Class B1 FM stations considered herein, the primary service contours represented on the attached exhibits are the 60 dBu contour, the 54 dBu contour and the 57 dBu contour, respectively.

⁴ The population was determined using the computerized block centroid retrieval methodology, recognized by the U.S. Census Bureau as a more accurate means of determining population within a given area than the uniform distribution method. See the October 9, 1992 *Letter from Chief, Audio Services Division to Larry W. Hill*, reference No. 1800B3-ESR.

Primary Service 60 dBu Gain Area (Green Shaded)
 Primary Service 60 dBu Loss Area (Red Shaded)

EXHIBIT 1

+ 1990 U.S. Census Population Centroid



WVRT(FM), JERSEY SHORE, PA [LIC] **BLACK SOLID CONTOUR**
 Ch. 249A, 6.0 kW (DA-MAX), 90 m HAAT

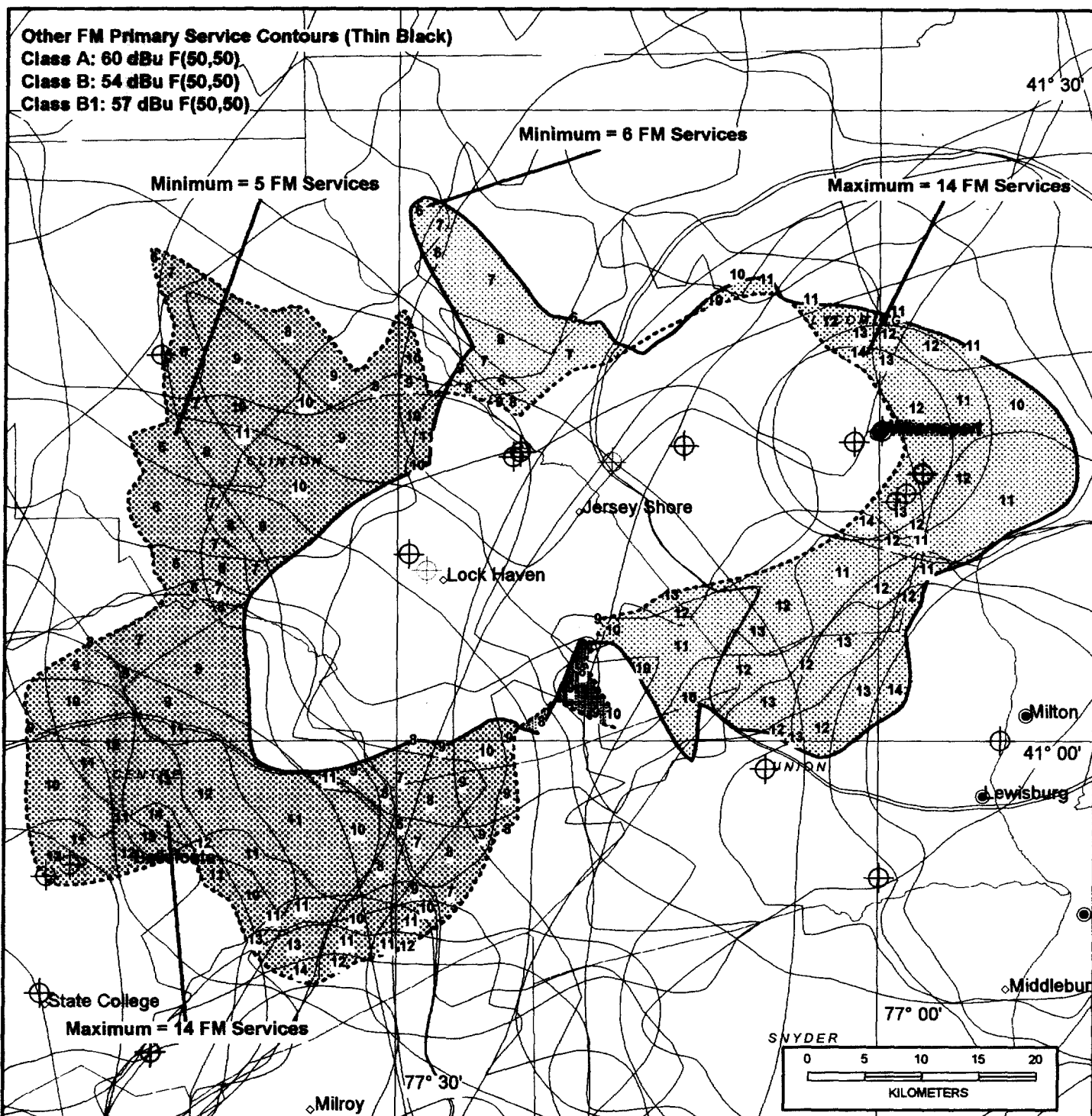
WVRT(FM), MILL HALL, PA [REF] **BLACK DASHED CONTOUR**
 Ch. 249A, 6.0 kW, 100 m HAAT

**WVRT(FM) GAIN AND LOSS AREAS
 JERSEY SHORE, MILL HALL AND
 PLEASANT GAP, PENNSYLVANIA
 MM DOCKET NO. 99-312, RM-9735
 DECEMBER, 1999**

CARL T. JONES
 CORPORATION

Primary Service 60 dBu Gain Area (Green Shaded)

Primary Service 60 dBu Loss Area (Red Shaded)



WVRT(FM), JERSEY SHORE, PA [LIC] **THICK BLACK SOLID CONTOUR**
 Ch. 249A, 6.0 kW (DA-MAX), 90 m HAAT

WVRT(FM), MILL HALL, PA [REF] **BLACK DASHED CONTOUR**
 Ch. 249A, 6.0 kW, 100 m HAAT

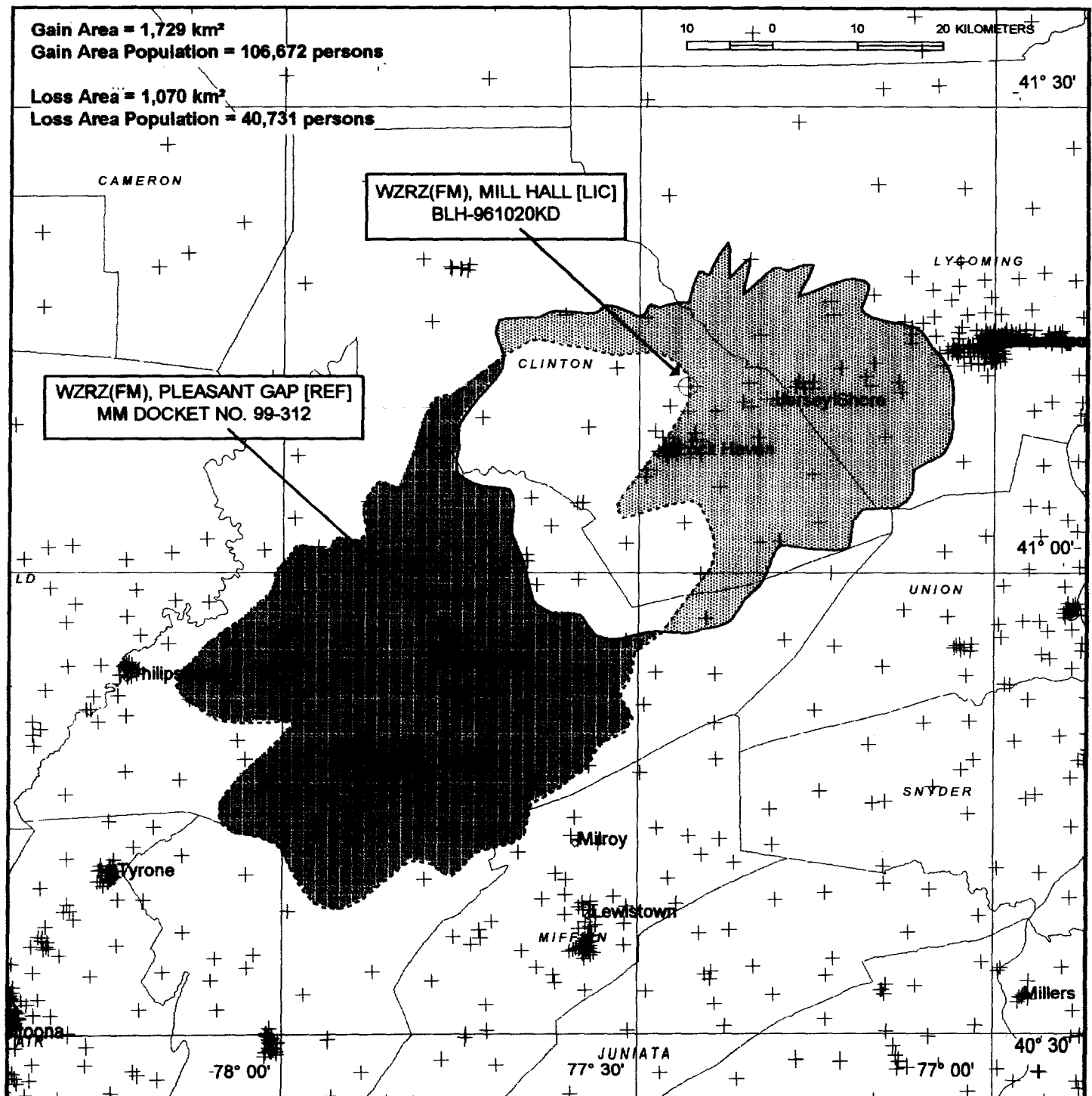
CARL T. JONES
 CORPORATION

WVRT(FM) OTHER FM SERVICES
 TO GAIN AND LOSS AREAS
 JERSEY SHORE, MILL HALL AND
 PLEASANT GAP, PENNSYLVANIA
 MM DOCKET NO. 99-312, RM-9735
 DECEMBER, 1999

Primary Service 60 dBu Gain Area (Green Shaded)
 Primary Service 60 dBu Loss Area (Red Shaded)

EXHIBIT 3

+ 1990 U.S. Census Population Centroid



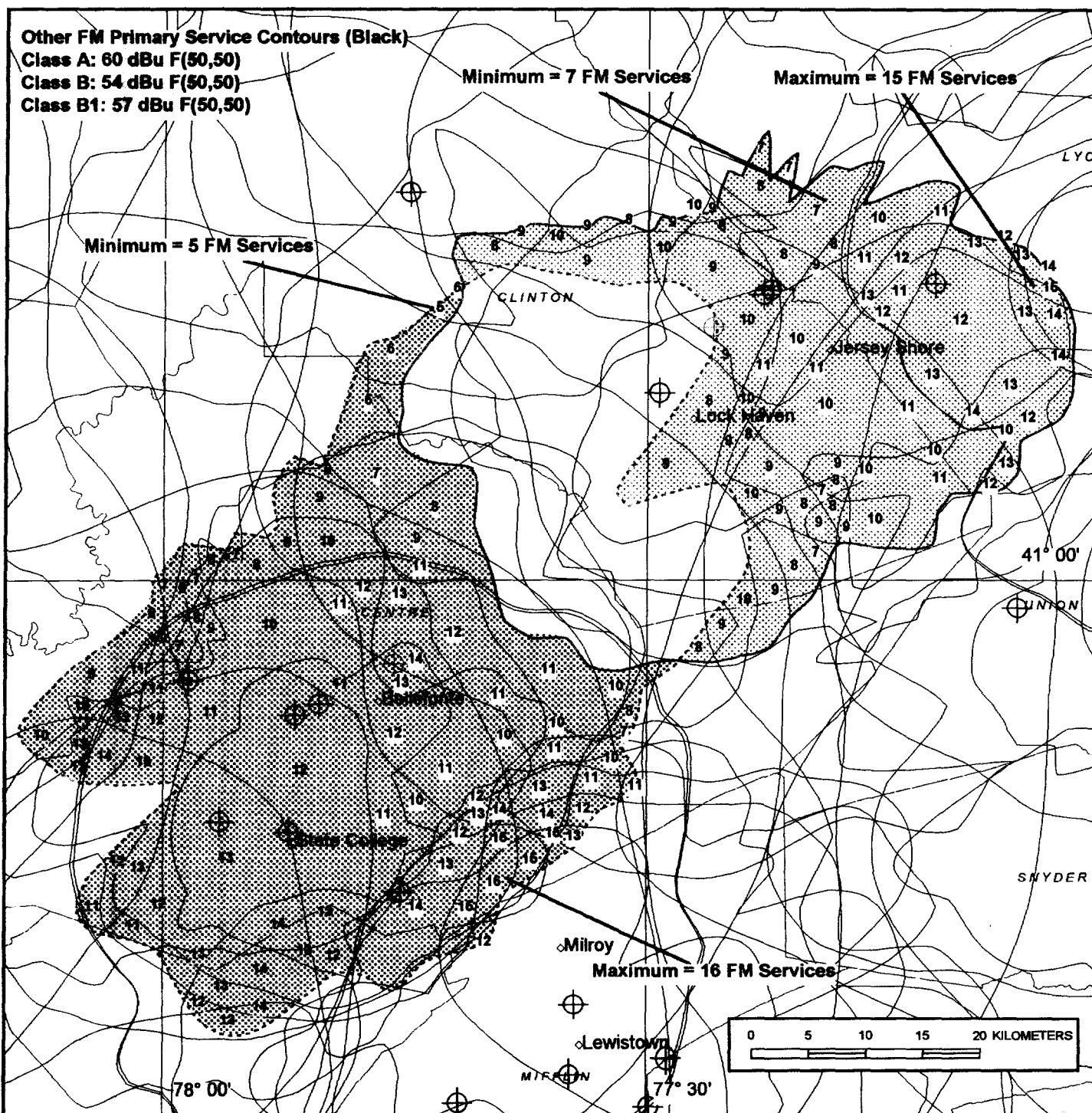
WZRZ(FM), MILL HALL, PA [LIC] **RED SOLID CONTOUR**
 Ch. 25.4A 0.97 kW, 177 m HAAT

WZRZ(FM), PLEASANT GAP, PA [REF] **RED DASHED CONTOUR**
 Ch. 25.4A 0.0 kW, 100 m HAAT

WZRZ(FM) GAIN AND LOSS AREAS
JERSEY SHORE, MILL HALL AND
PLEASANT GAP, PENNSYLVANIA
MM DOCKET NO. 99-312, RM-9735
DECEMBER, 1999

CARL T. JONES
CORPORATION

Primary Service 60 dBu Gain Area (Green Shaded)
 Primary Service 60 dBu Loss Area (Red Shaded)



WZRZ(FM), MILL HALL, PA [LIC] RED SOLID CONTOUR
 Ch. 25-A, 0.97 kW, 177 m HAAT

WZRZ(FM), PLEASANT GAP, PA [REF] RED DASHED CONTOUR
 Ch. 25-A, 0.0 kW, 100 m HAAT

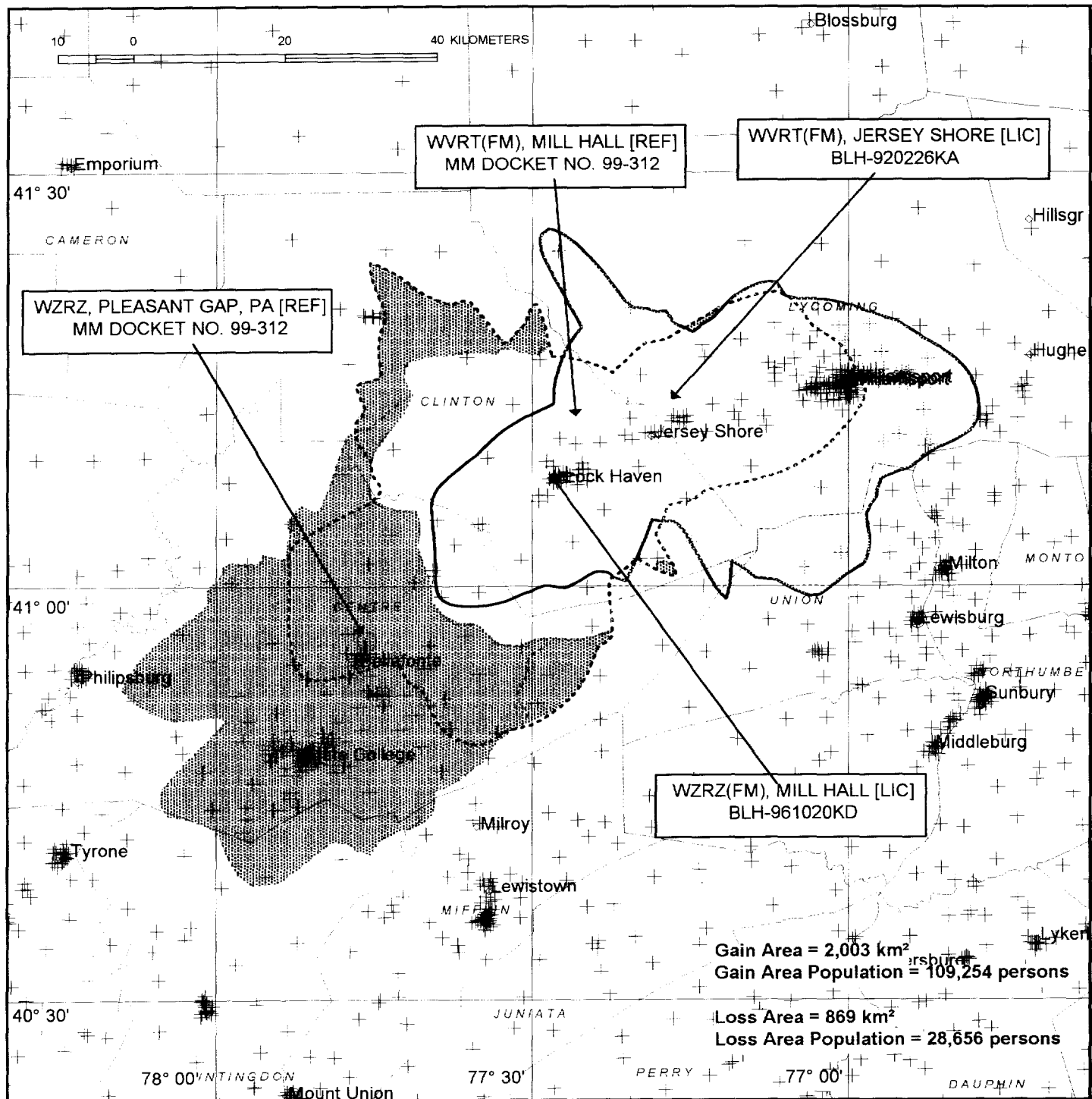
CARL T. JONES
 CORPORATION

**WZRZ(FM) OTHER FM SERVICES
 TO GAIN AND LOSS AREAS
 JERSEY SHORE, MILL HALL AND
 PLEASANT GAP, PENNSYLVANIA
 MM DOCKET NO. 99-312, RM-9735
 DECEMBER, 1999**

Primary Service 60 dBu Gain Area (Green Shaded)
 Primary Service 60 dBu Loss Area (Red Shaded)

EXHIBIT 5

+ 1990 U.S. Census Population Centroid

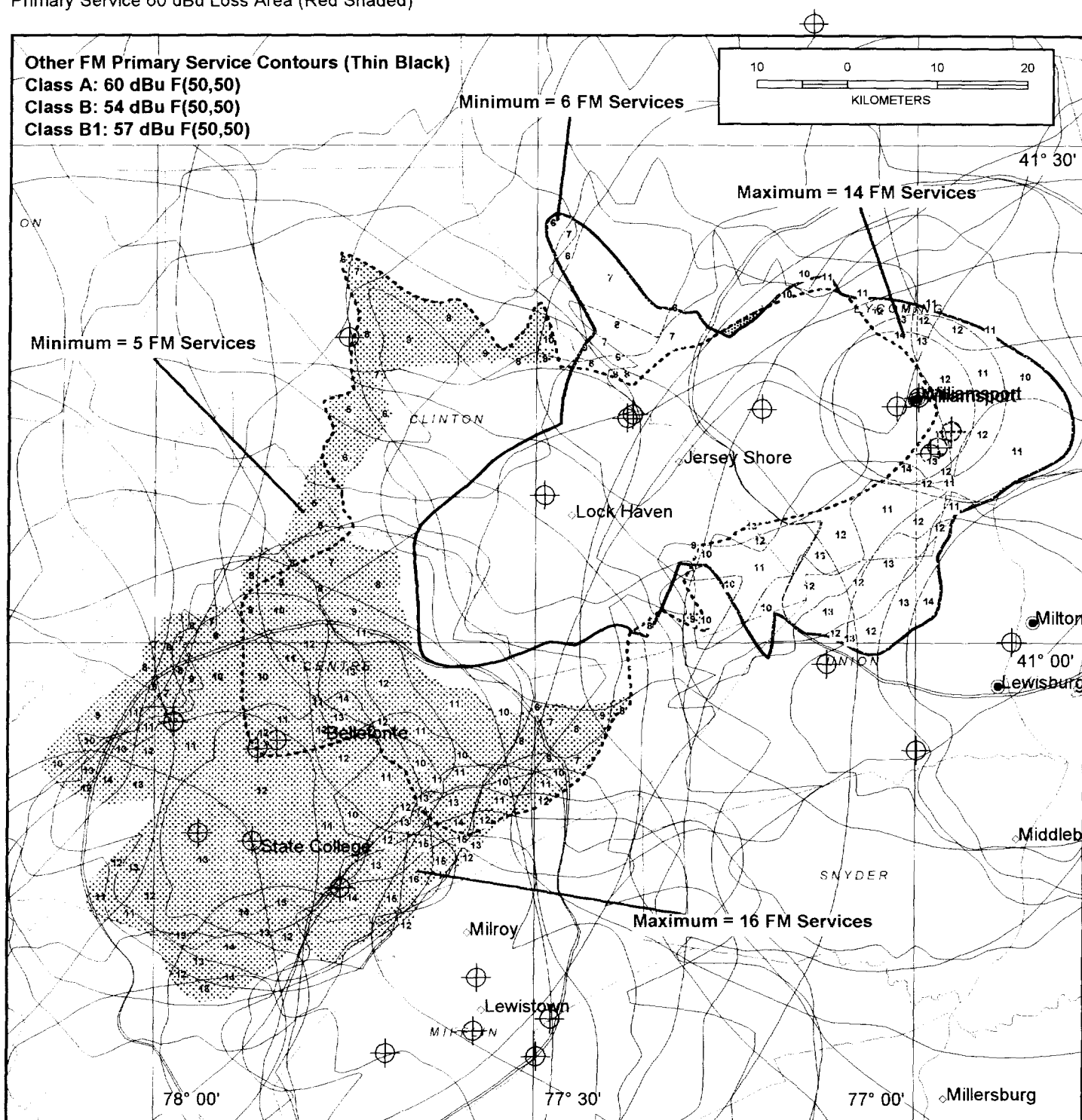


WVRT(FM), JERSEY SHORE, PA [LIC] **BLACK SOLID CONTOUR**
 Ch. 249A, 6.0 kW (DA-MAX), 90 m HAAT
 WVRT(FM), MILL HALL, PA [REF] **BLACK DASHED CONTOUR**
 Ch. 249A, 6.0 kW, 100 m HAAT

RULEMAKING GAIN AND LOSS AREAS
JERSEY SHORE, MILL HALL AND
PLEASANT GAP, PENNSYLVANIA
MM DOCKET NO. 99-312, RM-9735
DECEMBER, 1999

CARL T. JONES
 CORPORATION

Primary Service 60 dBu Gain Area (Green Shaded)
 Primary Service 60 dBu Loss Area (Red Shaded)



**RULEMAKING OTHER FM SERVICES
 TO GAIN AND LOSS AREAS
 JERSEY SHORE, MILL HALL AND
 PLEASANT GAP, PENNSYLVANIA
 MM DOCKET NO. 99-312, RM-9735
 DECEMBER, 1999**

WVRT(FM), JERSEY SHORE, PA [LIC] **THICK BLACK SOLID CONTOUR**
 Ch. 249A, 6.0 kW (DA-MAX), 90 m HAAT

WVRT(FM), MILL HALL, PA [REF] **BLACK DASHED CONTOUR**
 Ch. 249A, 6.0 kW, 100 m HAAT

CARL T. JONES
 CORPORATION

**SUMMARY OF POPULATIONS, AREAS AND OTHER SERVICES
JERSEY SHORE, MILL HALL AND PLEASANT GAP, PA
MM DOCKET NO. 99-312, RM-9735
DECEMBER, 1999**

Details of WVRT(FM) Jersey Shore to Mill Hall Reallocation (See Exhibits 1 & 2)

Primary Service (60 dBu contour) Loss Area	819 km ²
Population within Loss Area	29,440 persons

The entire loss area is served by a minimum of 6 FM services and a maximum of 14 FM services. The total number of aural services available to the loss area (including AM stations) is higher. There are no underserved areas within the loss area.

Primary Service (60 dBu contour) Gain Area	1,326 km ²
Population within Gain Area	27,287 persons

The entire gain area is served by a minimum of 5 FM services and a maximum of 14 FM services. The total number of aural services available to the gain area (including AM stations) is higher. There are no underserved areas within the gain area.

WVRT(FM) net area GAIN	507 km ²
WVRT(FM) net population LOSS	-2153 persons

Details of WZRZ(FM) Mill Hall to Pleasant Gap Reallocation (See Exhibits 3 & 4)

Primary Service (60 dBu contour) Loss Area	1,070 km ²
Population within Loss Area	40,731 persons

The entire loss area is served by a minimum of 7 FM services and a maximum of 15 FM services. The total number of aural services available to the loss area (including AM stations) is higher. There are no underserved areas within the loss area.

Primary Service (60 dBu contour) Gain Area	1,729 km ²
Population within Gain Area	106,672 persons

The entire gain area is served by a minimum of 5 FM services and a maximum of 16 FM services. The total number of aural services available to the gain area (including AM stations) is higher. There are no underserved areas within the gain area.

WZRZ(FM) net area GAIN	659 km ²
WZRZ(FM) net population GAIN	65,941 persons

Details of Total Rulemaking Reallocation Plan (See Exhibits 5 & 6)

Primary Service (60 dBu contour) Loss Area	869 km ²
Population within Loss Area	28,656 persons

The entire loss area is served by a minimum of 6 FM services and a maximum of 14 FM services. The total number of aural services available to the loss area (including AM stations) is higher. There are no underserved areas within the loss area.

Primary Service (60 dBu contour) Gain Area	2,003 km ²
Population within Gain Area	109,254 persons

The entire gain area is served by a minimum of 5 FM services and a maximum of 16 FM services. The total number of aural services available to the gain area (including AM stations) is higher. There are no underserved areas within the gain area.

RULEMAKING net area GAIN	1,134 km ²
RULEMAKING net population GAIN	80,598 persons

CARL T. JONES
CORPORATION